

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Use of Spectrum Bands Above 24 GHz For)	GN Docket No. 14-177
Mobile Radio Services)	
)	
Establishing a More Flexible Framework to)	IB Docket No. 15-256
Facilitate Satellite Operations in the 27.5-28.35)	
GHz and 37.5-40 GHz Bands)	
)	
Petition for Rulemaking of the Fixed Wireless)	RM-11664
Communications Coalition to Create Service)	
Rules for the 42-43.5 GHz Band)	
)	
Amendment of Parts 1, 22, 24, 27, 74, 80, 90,)	WT Docket No. 10-112
95, and 101 To Establish Uniform License)	
Renewal, Discontinuance of Operation, and)	
Geographic Partitioning and Spectrum)	
Disaggregation Rules and Policies for Certain)	
Wireless Radio Services)	
)	
Allocation and Designation of Spectrum for)	IB Docket No. 97-95
Fixed-Satellite Services in the 37.5-38.5 GHz,)	
40.5-41.5 GHz and 48.2-50.2 GHz Frequency)	
Bands; Allocation of Spectrum to Upgrade)	
Fixed and Mobile Allocations in the 40.5-42.5)	
GHz Frequency Band; Allocation of Spectrum)	
in the 46.9-47.0 GHz Frequency Band for)	
Wireless Services; and Allocation of Spectrum)	
in the 37.0-38.0 GHz and 40.0-40.5 GHz for)	
Government Operations)	

**RURAL LMDS LICENSEES REPLY TO OPPOSITIONS TO PETITIONS FOR
RECONSIDERATION**

Adams Telcom Inc. (“Adams”), Central Texas Communications, Inc. (“Central Texas”),
E.N.M.R. Telephone Cooperative (“E.N.M.R.”), Louisiana Competitive Telecommunications,
Inc. (“LCT”) and Pine Belt Communications, Inc. (“Pine Belt”) (together, the “Rural LMDS

Licensees” or “Petitioners”), by their attorneys and pursuant to the rules of the Federal Communications Commission (“FCC” or “Commission”),¹ hereby reply to Oppositions and Comments to the Rural LMDS Licensees’ Petition for Reconsideration of the above captioned Order.² The record in this proceeding illustrates the overwhelming support for proposals made by the Rural LMDS Licensees.³ Scant opposition, filed by SES Americom, Inc. and O3b Limited,⁴ show their fundamental misunderstanding of the Petitioners’ positions and of the hurdles real rural carriers face in deploying terrestrial-based fifth generation (“5G”) services to their rural customers.

I. The Record Supports Maintaining BTA and EA Sized Licenses, Or, in the Least, Relaxing Performance Requirements on Incumbents.

The Rural LMDS Licensees support, and reiterate the concerns of, a consensus of incumbent licensees urging the Commission to reconsider its decision to subdivide LMDS licenses into separate county-based licenses (or Partial Economic Area (“PEA”) licenses for the 39 GHz band).⁵ As previously stated by the Rural LMDS Licensees, and echoed by the Blooston

¹ 47 C.F.R. § 1.429.

² *In the Matter of Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, Report & Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, FCC 16-89 (rel. July 14, 2016). (“Order”). The Order was published in the Federal Register on November 14, 2016. *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, 91 Fed. Reg. 79,894 (Nov. 14, 2016).

³ See Blooston Rural Carriers Recon. Comments (filed Jan. 31, 2017) (“Blooston Rural Carriers Comments”); see also Fixed Wireless Communications Coalition Comments (filed Jan. 31, 2017) (“Fixed Wireless Comments”) and Skyriver Communications, Inc. Recon. Comments (filed Jan. 31, 2017) (“Skyriver Comments”).

⁴ SES Americom, Inc., O3b Limited Opposition (filed Jan. 31, 2017) (“SES and O3b Opposition”).

⁵ See, e.g., Competitive Carriers Association Petition (filed Dec. 14, 2016) (“CCA Petition”); Nextlink Wireless, LLC Petition (filed Dec. 14, 2016); T-Mobile USA, Inc. Petition (filed Dec. 14, 2016); Blooston Rural Carriers’ Comments; Fixed Wireless Comments; and Skyriver Comments. See, also, Order, Statement of Commissioner Michael O’Rielly at 278 (“licensing 28

Rural Carriers,⁶ the Commission has failed to provide a satisfactory explanation for adopting a different license size for the incumbent LMDS licenses. Moreover, the Commission fails to address the additional transaction costs and complicated process of coordination the smaller licenses will cause as demonstrated by Skyriver Communications.⁷

Incumbents participating in this proceeding have overwhelmingly opposed the smaller license areas for licensing of these high-band services. Several parties agree that the reduced license service area and associated performance requirements will impose significant costs and unnecessary administrative burdens on incumbents in the 28 GHz and 39 GHz bands.⁸ These requirements are particularly draconian because (1) they are being imposed on small rural licensees that have already invested substantial sums in constructing their licenses,⁹ and (2) as the record shows, there is no real rural application for fifth generation (5G) services at this time.¹⁰ By subdividing their licenses, the Commission is forcing incumbents to either relinquish rights to portions of their coverage area or squander limited funds on building networks that are incompatible with the demand and geography of certain rural counties or PEAs. The additional regulatory maintenance and boundary coordination of multiple licenses will also create greater

GHz by counties as opposed to larger market areas, such a[s] PEAs, has been rejected by almost everyone in the record”).

⁶ Blooston Rural Carriers Comments at 2.

⁷ Skyriver Comments at 10-11.

⁸ See Skyriver Comments at 9-10; Blooston Rural Carriers Comments at 2-3; and CCA Petition at 9.

⁹ See Rural LMDS Licensees Petition at 3, n.7 (filed Dec. 14, 2016). The Rural LMDS Licensees agree with the Blooston Rural Carriers that changing the rules associated with the spectrum after it has been auctioned (and after the Commission encouraged small businesses to invest in LMDS and 39 GHz licenses) would undermine confidence in the FCC’s auction process. See Blooston Rural Carriers’ Comments at 3.

¹⁰ See Blooston Rural Carriers’ Petition at 3; CCA Petition at 9-10.

administrative costs for incumbents, many of whom are small rural providers that do not have the in-house staff available to manage these new regulatory burdens.

If the Commission refuses to reconsider its decision to subdivide LMDS licenses, then it should at least relax the performance requirements imposed on incumbents. The Commission requires incumbent licensees to fulfill new performance requirements for each county within their license area by June 1, 2024.¹¹ Considering the nascent state of 5G technology and the lack of practical applications in rural areas, a June 1, 2024 deadline would be impractical if not impossible to meet. The Commission should allow more time (in the very least, the same deadline as imposed on new entrants to the 28 GHz and 39 GHz bands) for incumbents to meet these new, post auction imposed, performance requirements. Alternatively, the Commission should allow incumbent licensees to meet substantial service requirements by building out one (1) county within each existing Basic Trading Area (BTA) or Economic Area (EA) licensed area.

II. SES and O3b Mischaracterize the Rural LMDS Licensees' Position.

SES and O3b oppose petitions requesting the Commission maintain BTA-sized licenses in the 28 GHz band. They argue that a substantial portion of the 28 GHz spectrum will go unused if the Commission grants LMDS operators' request.¹² However, the Rural LMDS Licensees' request to maintain BTA-sized license areas is in no way based on their desire to warehouse the spectrum. Instead, the Rural LMDS Licensees are asking that the Commission either allow a build out of the area originally licensed or provide as much time as new entrants to build out the areas of newly subdivided licenses. If the Rural LMDS Licensees are unable to meet these allowances, we will relinquish the license.

¹¹ Order, ¶ 220.

¹² SES and O3b Opposition at 5.

To the extent possible, the Rural LMDS Licensees intend to maximize the use of our licenses. Specifically, the incumbent licensees would like to maintain their existing LMDS services, provide for 5G services on portions of the license where it makes economic sense to do so, and, in situations where third parties (including earth station operators) are interested in making use of certain portions of their license, lease or partition those portions of their license. As the license holder, the Rural LMDS Licensees should have the option to do so.

SES and O3b argue that: “[i]f a rural [LMDS] licensee fails to meet its buildout requirements in a county, that county should become available to any willing provider of FSS or UMFUS service on a first-come, first-served basis.”¹³ That proposal, however, ignores the fact that the exact reason a rural LMDS licensee would fail to meet its new buildout requirement in a particular county is because the provision of UMFUS service is not technically or economically feasible there. Further, there is no need to allocate those licenses to operators of FSS service when the Commission has already addressed several opportunities for FSS operators to obtain such spectrum rights. For example, FSS operators could acquire a 28 GHz license at auction, they could lease or acquire an entire or a disaggregated 28 GHz license in the secondary market, or use portions of future 28GHz licenses by abiding by the 0.1 Percent Rule.¹⁴ If an FSS operator believes it can make better use of an incumbent’s license area, particularly a rural area, then they already have the ability to negotiate a lease with the incumbent. The opposition of SES and O3b illustrate their lack of understanding of deploying terrestrial services in rural America, and by accusing rural licensees of warehousing spectrum, mischaracterize the positions of the Rural LMDS licensees.

¹³ SES and O3b Opposition at 11.

¹⁴ See Order ¶¶ 48, 58, 92; *see also* ViaSat, Inc. Opposition at 9-10 (filed Jan. 31, 2017).

III. Conclusion.

The Rural LMDS Licensees respectfully request the Commission heed the recommendations from the vast majority of petitioners and maintain BTA-sized and EA-sized licenses in the 28 GHz and 39 GHz bands. If the Commission will not reconsider the size of the license areas, the Petitioners request that the Commission either extend the performance deadline to July 1, 2028 (or the date that new 28 GHz licensees are required to meet performance requirements) or allow incumbent licensees to meet performance requirements by building out one (1) county within their existing BTA area.

Respectfully submitted,



Donald L. Herman, Jr.
Clare C. Liedquist
Herman & Whiteaker, LLC
6720B Rockledge Drive, Suite 150
Bethesda, MD 20817
Counsel for the Rural LMDS Licensees

February 24, 2017

CERTIFICATE OF SERVICE

I, Clare C. Liedquist, hereby certify that, on this 24th day of February, 2017, a copy of the foregoing Reply to Comments and Oppositions was served via First Class, U.S. Mail, on the following:

Chris Pearson
5G Americas
1750 112th Avenue N.E.
Suite B220
Bellevue, WA 98004

Audrey L. Allison
The Boeing Company
929 Long Bridge Drive
Arlington, VA 22202

Bruce A. Olcott
Preston N. Thomas
Jones Day
51 Louisiana Ave. N.W.
Washington, DC 20001
Counsel to Boeing

D. Cary Mitchell
John A. Prendergast
Blooston, Mordkofsky, Dickens, Duffy &
Prendergast, LLP
2120 L Street, N.W.
Suite 300
Washington, DC 20037
Counsel for the Blooston Rural Carriers

Steven K. Berry
Rebecca Murphy Thompson
Elizabeth Barket
Competitive Carriers Association
801 15th Street, N.W.
Suite 401
Washington, D.C. 20005

Thomas C. Power
Scott K. Bergmann
Brian M. Josef
Kara D. Romagnino
CTIA
1400 Sixteenth Street, N.W.
Suite 600
Washington, DC 20036

Kalpak Gude
Dynamic Spectrum Alliance Limited
3855 SW 153rd Drive
Beaverton, OR 97006

Jennifer A. Manner
Jodi Goldberg
Brennan Price
EchoStar Satellite Operating Corporation
Hughes Network Systems, LLC
11717 Exploration Lane
Germantown, MD 20876

Cheng-yi Liu
Mitchell Lazarus
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Arlington, VA 22209
*Counsel for Fixed Wireless Communications
Coalition*

Dave Horne
Jayne Stancavage
Reza Arefi
Intel Corporation
1155 F Street N.W., Suite 1025
Washington, D.C. 20004

Maureen C. McLaughlin
Vice President Public Policy
Iridium Communications, Inc.
1750 Tysons Boulevard
Suite 1400
McLean, VA 22102

Scott Blake Harris
Harris, Wiltshire & Grannis LLP
1919 M Street
Eighth Floor
Washington, DC 20036
Counsel for Iridium Communications, Inc.

Jennifer A. Warren
Vice President, Technology Policy and
Regulation
Lockheed Martin Corporation
2121 Crystal Drive #100
Arlington, VA 22202

Paula Boyd
Michael Daum
Microsoft Corporation
901 K Street N.W.
11th Floor
Washington, D.C. 20001

Rick Chessen
Danielle J. Pineres
NCTA – The Internet & Television
Association
25 Massachusetts Avenue, N.W.
Suite 100
Washington, DC 20001-1431

Michael Calabrese
New America's Open Technology Institute
740 15th Street NW
Washington, DC 20005

Prakash Moorut
Nokia Bell Labs
Brian Hendricks
Jeffrey Marks
Government Relations
Nokia
1100 New York Avenue, N.W.
Suite 705 West
Washington, DC 20005

Suzanne Malloy
Vice President, Regulatory Affairs
O3b Limited
900 17th Street, N.W.
Suite 300
Washington, D.C. 20006

John Gasparini
Public Knowledge
1818 N St. NW, Suite 410
Washington, D.C. 20036

Petra Vorwig
Senior Legal and Regulatory Counsel
SES Americom, Inc.
1129 20th Street, N.W.
Suite 1000
Washington, D.C. 20036

Saeed Khorami
CEO and President
Skyriver Communications, Inc.
310 Miramar Road
Suite 600
San Diego, CA 92126

Virginia Lam Abrams
Senior Vice President, Communications &
Government Relations
Starry, Inc.
38 Chauncy Street
2nd Floor
Boston, MA 02111

Davidi Jonas,
President and CEO
Jerry Pi,
Chief Technical Officer
Straight Path Communications, Inc.
600 Sylvan Ave.
Suite 402
Englewood Cliffs, NJ 07632

Steve B. Sharkey
John Hunter
Christopher Wieczorek
T-Mobile USA, Inc.
601 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20004

James Reid
Dileep Srihari
Telecommunications Industry Association
1320 North Courthouse Road
Suite 200
Arlington, VA 22201

Grant B. Spellmeyer
Vice President,
Federal Affairs and Public Policy
United States Cellular Corporation
500 N. Capital Street, N.W.
Suite 210
Washington, D.C. 20001

Leighton T. Brown
Peter M. Connolly
Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, DC 20006
Counsel to United States Cellular Corporation

Christopher Murphy
ViaSat, Inc.
6155 El Camino Real
Carlsbad, CA 92009

John P. Janka
Elizabeth R. Park
Latham & Watkins LLP
555 Eleventh Street, N.W.
Suite 1000
Washington, DC 20004
Counsel for ViaSat, Inc.

William H. Johnson
Gregory M. Romano
Christopher D. Oatway
1300 I Street, N.W., Suite 500 East
Washington, DC 20005
Counsel for Verizon and Verizon Wireless

Edgar Figueroa
President and CEO
Wi-Fi Alliance
10900-B Stonelake Blvd., Suite 126
Austin, TX 78759

/s/ Clare C. Liedquist

Clare C. Liedquist